89-463

Supreme Court, U.S.
FILED
SEP 30 1989
JOSEPH F. SPANIOL, JR.
CLERK

No._____

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In the Supreme Court of the United States

October Term, 1989

THOMAS W. TIERNEY

Petitioner,

vs.

STATE OF NEW MEXICO

Respondent.

SUPPLEMENTAL BRIEF PURSUANT TO SUPREME COURT RULE 22.6

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SUPPLEMENTARY BRIEF

Pursuant to Supreme Court Rule 22.6, Petitioner files this supplementary brief to advise the Court that on September 27, 1989, the Supreme Court of New Mexico denied Petitioner's petition for a writ of superintending control therein, the effect of which, had the same been granted, would have been to require the Court of Appeals of the State of New Mexico to vacate and withdraw its memorandum opinion of April 11, 1989, and remand these proceedings to the New Mexico trial court for disposition of Petitioner's motion for new trial on the basis of newly discovered evidence of false testimony at trial by four (4) material State's witnesses.

The pendency of said petition before the New Mexico Supreme Court, together with advice that the petition for writ of certiorari herein would be withdrawn had

the New Mexico Supreme Court ruled in Petitioner's favor thereon, is referred to at page 20 of Petitioner's petition herein.

Respectfully submitted,

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Certificate of Service

I hereby certify that three (3) counterparts of the above and foregoing Supplementary Brief were served upon Daniel J. Pearlman, Esq., Assistant Attorney General for the State of New Mexico, by mailing the same to him at his office address at P.O. Drawer 1508, Bataan Memorial Building, Santa Fe, NM 87504, this 28th day of September, 1989.

WILLARD B. BUNCH, ESQ.